

Application No. 10/783,020

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Docket No.: A0870.70000US00

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REMARKS

Subsequent to filing of the Amendment in Response to Non-Final Office Action in the referenced application, a paper by O'Riordan and Fitzgerald (FEMS Microbiology Letters 156(1997) 259-264) was brought to the attention of Applicant's attorney by Examiner Afremova. Examiner Afremova pointed to reference to Bifidobacterium sp. designated UCC 35624 in Table 1 of the O'Riordan and Fitzgerald paper. Submitted with this Second Reply is a Declaration Under 37 C.F.R. § 1.132 of co-author Fitzgerald stating that the strain listed in Table 1 of the paper was not publicly available. He further declares that UCC 35624 is an internal designation assigned by researchers in the Department of Microbiology at University College Cork and one skilled in the art could not have obtained the specific strain using information contained in the O'Riordan and Fitzgerald paper and information available when the paper was published.

Applicant's attorney appreciates the Examiner's contacting her to discuss this matter. In view of the above, the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 23/2825, under Order No. A0870.70000US00 from which the undersigned is authorized to draw.

Dated: November 21, 2006

Respectfully submitted,

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